

AMENDED IN SENATE JUNE 22, 1998

AMENDED IN SENATE JUNE 8, 1998

AMENDED IN ASSEMBLY MAY 7, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2724**

**Introduced by Assembly Member Cardenas**  
**(Coauthors: Assembly Members Aroner, Knox, Kuehl, and**  
**Washington)**  
(Coauthors: Senators Solis and Watson)

February 23, 1998

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An act to amend Section 704.080 of the Code of Civil Procedure, relating to debtor-creditor relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2724, as amended, Cardenas. Judgments: exemptions.

Existing law specifies exemptions from the enforcement of a money judgment, including an exemption for \$2,000, for one designated payee, or \$3,000, for specified joint payees, held in a defined deposit account and an exemption, subject to a specified claim procedure, for excess funds in that account that consist of directly deposited payments authorized by the Social Security Administration ~~that are directly deposited into an account.~~

This bill would, on and after January 1, 2000, *decrease the stated exemption amounts to \$1,000, for one designated payee, and \$1,500, for specified joint payees, but would extend the*

applicability of ~~this~~ *the excess funds* exemption ~~for~~ *to directly deposited* payments of public benefits, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 704.080 of the Code of Civil  
2 Procedure is amended to read:

3 704.080. (a) For the purposes of this section:

4 (1) “Deposit account” means a deposit account in  
5 which payments of public benefits are directly deposited  
6 by the government or its agent.

7 (2) “Public benefits” means payments authorized by  
8 the Social Security Administration for regular retirement  
9 and survivors’ benefits, supplemental security income  
10 benefits, coal miners’ health benefits, and disability  
11 insurance benefits. “Public benefits” also means aid  
12 payments authorized pursuant to subdivision (a) of  
13 Section 11450 of the Welfare and Institutions Code,  
14 payments for supportive services as described in Section  
15 11323.2 of the Welfare and Institutions Code, and general  
16 assistance payments made pursuant to Section 17000.5 of  
17 the Welfare and Institutions Code.

18 (b) A deposit account is exempt without making a  
19 claim in the following amount:

20 (1) ~~Two thousand dollars (\$2,000)~~ *One thousand*  
21 *dollars (\$1,000)* where one depositor is the designated  
22 payee of the directly deposited payments.

23 (2) ~~Three thousand dollars (\$3,000)~~ *One thousand five*  
24 *hundred dollars (\$1,500)* where two or more depositors  
25 are the designated payees of the directly deposited  
26 payments, unless those depositors are joint payees of  
27 directly deposited payments that represent a benefit to  
28 only one of the depositors, in which case the exempt  
29 amount is ~~two thousand dollars (\$2,000)~~ *one thousand*  
30 *dollars (\$1,000)*.

31 (c) The amount of a deposit account that exceeds the  
32 exemption provided in subdivision (b) is exempt to the  
33 extent that it consists of payments of public benefits.

1 (d) Notwithstanding Article 5 (commencing with  
2 Section 701.010) of Chapter 3, when a deposit account is  
3 levied upon or otherwise sought to be subjected to the  
4 enforcement of a money judgment, the financial  
5 institution that holds the deposit account shall either  
6 place the amount that exceeds the exemption provided  
7 in subdivision (b) in a suspense account or otherwise  
8 prohibit withdrawal of that amount pending notification  
9 of the failure of the judgment creditor to file the affidavit  
10 required by this section or the judicial determination of  
11 the exempt status of the amount. Within 10 business days  
12 after the levy, the financial institution shall provide the  
13 levying officer with a written notice stating (1) that the  
14 deposit account is one in which payments of public  
15 benefits are directly deposited by the government or its  
16 agent and (2) the balance of the deposit account that  
17 exceeds the exemption provided by subdivision (b).  
18 Promptly upon receipt of the notice, the levying officer  
19 shall serve the notice on the judgment creditor. Service  
20 shall be made personally or by mail.

21 (e) Notwithstanding the procedure prescribed in  
22 Article 2 (commencing with Section 703.510), whether  
23 there is an amount exempt under subdivision (c) shall be  
24 determined as follows:

25 (1) Within five days after the levying officer serves the  
26 notice on the judgment creditor under subdivision (d), a  
27 judgment creditor who desires to claim that the amount  
28 is not exempt shall file with the court an affidavit alleging  
29 that the amount is not exempt and file a copy with the  
30 levying officer. The affidavit shall be in the form of the  
31 notice of opposition provided by Section 703.560, and a  
32 hearing shall be set and held, and notice given, as  
33 provided by Sections 703.570 and 703.580. For the purpose  
34 of this subdivision, the “notice of opposition to the claim  
35 of exemption” in Sections 703.570 and 703.580 means the  
36 affidavit under this subdivision.

37 (2) If the judgment creditor does not file the affidavit  
38 with the levying officer and give notice of hearing  
39 pursuant to Section 703.570 within the time provided in

1 paragraph (1), the levying officer shall release the deposit  
2 account and shall notify the financial institution.

3 (3) The affidavit constitutes the pleading of the  
4 judgment creditor, subject to the power of the court to  
5 permit amendments in the interest of justice. The  
6 affidavit is deemed controverted and no counteraffidavit  
7 is required.

8 (4) At a hearing under this subdivision, the judgment  
9 debtor has the burden of proving that the excess amount  
10 is exempt.

11 (5) At the conclusion of the hearing, the court by order  
12 shall determine whether or not the amount of the deposit  
13 account is exempt pursuant to subdivision (c) in whole or  
14 in part and shall make an appropriate order for its prompt  
15 disposition. No findings are required in a proceeding  
16 under this subdivision.

17 (6) Upon determining the exemption claim for the  
18 deposit account under subdivision (c), the court shall  
19 immediately transmit a certified copy of the order of the  
20 court to the financial institution and to the levying officer.  
21 If the order determines that all or part of the excess is  
22 exempt under subdivision (c), with respect to the  
23 amount of the excess which is exempt, the financial  
24 institution shall transfer the exempt excess from the  
25 suspense account or otherwise release any restrictions on  
26 its withdrawal by the judgment debtor. The transfer or  
27 release shall be effected within three business days of the  
28 receipt of the certified copy of the court order by the  
29 financial institution.

30 (f) If the judgment debtor claims that a portion of the  
31 amount is exempt other than pursuant to subdivision (c),  
32 the claim of exemption shall be made pursuant to Article  
33 2 (commencing with Section 703.510). If the judgment  
34 debtor also opposes the judgment creditor's affidavit  
35 regarding an amount exempt pursuant to subdivision (c),  
36 both exemptions shall be determined at the same  
37 hearing, provided the judgment debtor has complied  
38 with Article 2 (commencing with Section 703.510).



1     SEC. 2. This act shall become operative on January 1,  
2     2000.

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